

CONFIDENTIAL

INSPECTOR GENERAL
75-4186

**OGC HAS
REVIEWED.**

5 DEC 1975

Executive Registry
75-9745

MEMORANDUM FOR: Director of Central Intelligence
FROM : Inspector General
SUBJECT : Employee's Appeal for Recompense

25X1A 1. Action Requested: Your decision is requested on the grievance of
25X1A [redacted] who believes he should have been compensated for the
25X1A shipment of his vehicle home to the US. Paragraph 7 has our recommendation.

2. Background: [redacted] paid for a German-made car (an Opel) in
Maryland in March 1971 before leaving on a tour of duty [redacted]. He
accepted delivery of the car [redacted]. At that time Agency regulations
provided for Government shipment of POV's, foreign or domestic, regardless
of where purchased. 25X1A

3. On 2 November 1972 the Agency sent a cable to the field which said
that after 31 December 1972 foreign-made and foreign-purchased vehicles
would have to be shipped home at the owners' expense. The change in policy
was a reflection of Congressional intent as expressed in a Conference Report.

25X1A 4. [redacted] tour of duty [redacted] ended in June 1974, at which
time his car was shipped to the US. He believes he should be reimbursed
because the car was purchased in the US and he acted in accord with then
existing regulations. 25X1A

25X1A 5. Staff Position: OGC has opined that [redacted] car, although
paid for in Maryland, was purchased abroad. This opinion was based on the
intent of Congress; it noted though that the purchase was foreign under
Maryland's Uniform Commercial Code as well. Therefore, under Agency
regulations at the time of his return, he was not entitled to have it shipped
at Government expense. OGC also has noted, however, that (1) Congress' intent,
which was expressed in a Conference Report, does not have the effect of law
and (2) the DCI can change Agency regulations or grant exceptions to them, but
should do so as a matter of policy for which there is a general rationale which
can be applied to all in similar circumstances. Even though granting that a
mechanism for relief exists, OGC does not believe that [redacted] is entitled
25X1A to relief (or that Messrs. [redacted] were entitled to the relief already
25X1A granted to them, by previous DCI decision, with regard to shipment of their
POV's).

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E2 IMPDET CL BY 018186

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Approved For Release 2001/08/27 : CIA-RDP79-00498A000700150010-7

SUBJECT: Employee's Appeal for Recompense

25X1A 6. It is my belief that whether or not relief should be granted to [REDACTED] comes down to whether or not there are any grounds that warrant use of your special authority. I believe that such grounds exist, even though they are not as preponderantly one-sided as one might wish. These grounds are as follows:

a. There was slow and questionable notification to the field. The 2 November 1972 cable began with the words "Guidance herein tentative. . ."; the next cable was on 29 March 1973, three months after the deadline for shipping cars home at Government expense.

25X1A b. The revised regulation was not published until January 1974, more than one year later.

25X1A c. There is a precedent from the aforementioned [REDACTED] cases. [REDACTED] was reimbursed for hardship and [REDACTED] because of special circumstances, yet in both cases the failure of Headquarters to give clear and timely notification to the field was cited as part of the justification. In the [REDACTED] case the justification also noted that when he went overseas the regulations called for reimbursement.

25X1A d. The legal objections seem overly technical given that Mr. [REDACTED] ordered and paid for the car in Maryland and did so at a time when there would have been no question of his entitlement to have the car shipped back to the US at Government expense.

25X1A 7. Recommendation: Accordingly, I recommend that Mr. [REDACTED] be reimbursed the \$350 it cost him to ship his POV home. I agree with OGC that an affirmative decision in a case such as this one should be applicable to any who were in similar circumstances--in this case those who, before Congress made known its intent, were overseas and owners of foreign-made and foreign-purchased vehicles which were ordered and paid for in the US.

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[REDACTED]
Donald F. Chamberlain
Inspector General

APPROVED: [REDACTED]

DATE: 8 DEC 1975

DISAPPROVED: _____

DATE: _____

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DD/S&T# 2769-75

25-1292

17 July 1975

MEMORANDUM FOR: Director of Central Intelligence

THROUGH: Director of Technical Service
Deputy Director for Science and Technology
Director of Personnel
Inspector General

25X1A

SUBJECT: Request for Reimbursement - [REDACTED]

25X1A

REFERENCE: [REDACTED]

1. Action Requested: During the past year and a half, the undersigned has asked to be reimbursed for the cost of shipment of a foreign-made, U.S.-purchased, privately-owned vehicle from an overseas post to the United States. As this subject has been under discussion for an extended period of time and, due to the lack of attention this matter is presently receiving through normal support mechanisms, the undersigned requests a speedy resolution of the problem and reimbursement in the amount of \$350.00.

2. Background:

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a. In March 1971, prior to going [REDACTED] in May 1971, the undersigned sold his 1965 Ford and purchased a new 1971 Opel from Otho Williams Buick, Suitland, Maryland. In order to facilitate the delivery of the automobile and to save the U.S. Government the cost of shipment of the vehicle to [REDACTED] elected to take delivery of t [REDACTED]

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c. Prior to returning PCS to the United States, the [REDACTED]

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SUBJECT: Request for Reimbursement - [REDACTED]

which states, "A foreign made POV purchased in CONUS may be shipped abroad or returned to CONUS at government expense." Since the undersigned's vehicle had been delivered in Europe, [REDACTED] was not certain that the vehicle qualified for shipment at government expense and asked Headquarters guidance via dispatch [REDACTED] (Attachment 2). Headquarters response via dispatch [REDACTED] (Attachment 3) stated "Reference B [REDACTED] requires POV's to have been shipped from CONUS. This bears with it the understanding that all import duties have been paid."

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d. [REDACTED] does not require POV's to have been shipped from CONUS and contains no understanding that import

[REDACTED]
the dispatch was questioned by the undersigned concerning the accuracy of the statements in the dispatch, he admitted that his dispatch was incorrect.

e. A reimbursement claim was submitted through C/OTS/SS/B&F requesting payment of the undersigned's expenses in shipment of his POV. Since there was question as to the legality of the claim, C/OTS/SS would not authorize payment of the claim until General Counsel approved the legality of the claim.

f. On 9 October 1974, the undersigned prepared a memo for Office of General Counsel outlining the facts concerning the purchase of the undersigned's POV (Attachment 4). On 15 October 1974, the Office of the General Counsel stated, in memo OGS 74-1868 (Attachment 5), that reimbursement for shipment of the vehicle was not authorized for three reasons:

(1) The bill of sale did not identify the vehicle by serial number and therefore, title to the vehicle passed upon delivery [REDACTED] making the transaction a foreign purchase.

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(2) In the opinion of the General Counsel, the transaction was a foreign purchase for purposes of the Congressional ban on the shipment of foreign made vehicles.

(3) The undersigned could have shipped his POV at government expense prior to 31 December 1972.

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SUBJECT: Request for Reimbursement - [REDACTED]

g. Upon receipt of the Office of General Counsel memo, the undersigned contacted Buick Motor Division and the dealer who sold the undersigned his vehicle. Buick Motor Division stated that, in the undersigned's case, they did not know the exact date when the serial and engine numbers of the undersigned's vehicle were received in the United States, but in normal conditions, they were received at least one month prior to delivery of the automobile. Buick could have supplied the undersigned with the needed numbers prior to the undersigned's PCS.

h. Otho Williams Buick, Suitland, Md., stated that similar problems were handled by dating the bill of sale, then holding the bill of sale until the numbers were received. Once the numbers were received, the bill of sale was completed and forwarded to the customer. In November 1974, Otho Williams sent the undersigned a copy of the bill of sale, dated 6 March 1971, with the engine number of the undersigned's vehicle identified:

i. The undersigned did not ship his POV to CONUS prior to the 31 December 1972 deadline for two reasons:

(1) The undersigned was under the impression that, in order to ship a POV at government expense, PCS orders were required.

(2) If the POV had been shipped in December 1972, the undersigned would have been without a POV for a period of one and a half years which would have created a hardship on both the undersigned and his family.

j. Based on paragraphs g-i above, the undersigned prepared a memo for General Counsel, dated 7 January 1975 (Attachment 6) and asked for reconsideration of the conclusion of General Counsel Memo OGS 74-1868.

k. On 5 June 1975, Office of General Counsel responded to the undersigned's memo asking for reconsideration (Attachment 7). In the Office of General Counsel's opinion, the undersigned's POV did not qualify for reimbursement for shipment for two reasons:

(1) Even though the identifying number could have been obtained prior to delivery, the numbers were obtained after delivery and therefore, the vehicle passed to the undersigned upon his receipt of the vehicle [REDACTED]

25X1A

(2) The transaction was a foreign purchase for purposes of the Congressional ban on shipment of foreign made vehicles.

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SUBJECT: Request for Reimbursement - [REDACTED]

1. Upon receipt of Office of General Counsel's memo of 5 June 1975, the undersigned asked lawyers from OTS, as a personal favor to the undersigned, for their legal opinion. With their assistance, a response (Attachment 8) to Office of General Counsel's memo was prepared which offered the following points:

(1) The undersigned concedes that the transaction was not a sale within the strictest definition of the uniform commercial code at the time of purchase. However, if the law had been in effect at the time of purchase, the undersigned could have taken the steps to make the transaction a sale in the strictest compliance with the uniform commercial code.

(2) The undersigned elected to take [REDACTED] delivery for personal convenience and to save the U.S. Government the cost of transportation.

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(3) The undersigned at no time attempted to avoid or circumvent the law or Agency Regulations. Indeed, the law and regulations in question were not even in existence at the time the undersigned purchased his vehicle.

(4) It was not the intent of Congress to penalize those persons who had purchased foreign automobiles before the ban was in effect. The ban was aimed at denying Department of Defense from implementing a new policy. In fact, Congress evidently recognized the problems and hardships that would be caused by strict compliance with the ban on those individuals in the undersigned's position as they allow State Department the following exception (Attachment 9): "A foreign-made, foreign purchased motor vehicle owned by an employee or family member authorized to travel may be shipped to or returned to the U.S. when the vehicle: (A) Was purchased after September 11, 1970 and prior to October 24, 1972....."

(5) The undersigned in fact saved the government the cost of transporting his vehicle from the U.S. to [REDACTED]

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m. The undersigned and Mr. [REDACTED] DDS&T, contacted Mr. [REDACTED] of the Office of General Counsel in an attempt to reconcile the difference of legal opinion. Mr.

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SUBJECT: Request for Reimbursement - [REDACTED]

25X1A

[REDACTED] stated that, in his opinion, any meetings between us would not be fruitful and a grievance procedure followed.

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[REDACTED]
OTS/CCB

CONCURRENCES:

Director of Technical Service

Date

Deputy Director
for Science & Technology

Date

Director of Personnel

Date

Inspector General

Date

APPROVED: _____

DISAPPROVED: _____

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